

FILED
GREAT FALLS DIV.

2008 APR 14 PM 12 10

PATRICK E. DUFFY, CLERK

IN THE UNITED STATES DISTRICT COURT
BY
DEPUTY CLERK
FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

ROY McINTYRE,

Petitioner,

vs.

MIKE MAHONEY; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

No. CV 06-83-GF-SEH

ORDER

On November 21, 2007, United States Magistrate Judge Keith Strong entered his Findings and Recommendation¹ in this matter. Petitioner did not file objections. No review is required of proposed findings and recommendations to which no objection is made. Thomas v. Arn, 474 U.S. 140, 149-152 (1986). However, this Court will review Judge Strong's Findings and Recommendation for clear error.

Judge Strong found that the first four claims in the habeas petition, all of which relate to Petitioner's conviction, are barred by the applicable statute of limitations and the doctrine of procedural default. Judge Strong found that the fifth claim, which relates to the denial of Petitioner's parole request, lacked merit. Judge Strong recommended that a certificate of

¹ Docket No. 9.

appealability be denied as to the first four claims and concluded that no certificate of appealability was required for the fifth claim. I find no clear error in Judge Strong's Findings and Recommendation and adopt them in full.

ORDERED:

1. The Petition for Writ of Habeas Corpus² is DISMISSED with prejudice.
2. A certificate of appealability is DENIED as to the first four claims in the petition because they are time-barred. No certificate of appealability is required for the fifth claim as it challenges an administrative decision made by the Montana Board of Pardons and Parole. White v. Lambert, 370 F.3d 1002, 1010-13 (9th Cir. 2004).

The Clerk of Court is directed to enter judgment accordingly.

DATED this 14th day of April, 2008.


SAM E. HADDON
United States District Judge

² Document No. 1